



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2022-0698]

RIN 1625-AA08

Special Local Regulation; San Diego Fleet Week Veterans Day Boat Parade; San Diego Bay, San Diego, CA

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Final rule.

SUMMARY: The Coast Guard is amending its special local regulations for recurring marine parades, regattas, and other events in Southern California Annual Marine Events for the San Diego Captain of the Port Zone. This final rule will add one new recurring special local regulation for the San Diego Fleet Week Veterans Day Boat Parade. This action is necessary to provide for the safety of life on the navigable waters during the annual event, and will restrict vessel traffic in the designated areas during the event unless authorized by the Captain of the Port Sector San Diego or a designated representative.

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2022-0698 in the search box and click "Search." Next, in the Document Type column, select "Supporting & Related Material."

FOR FURTHER INFORMATION CONTACT: If you have questions about this rulemaking, call or email Lieutenant Junior Grade Shera Kim, Waterways Management, U.S. Coast Guard; telephone 619-278-7656, email MarineEventsSD@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

On August 11, 2022, The San Diego Fleet Week Foundation notified the Coast Guard that it will be hosting the San Diego Fleet Week Veterans Day Boat Parade annually on a single day during the month of November. The regulated area would cover all navigable waters of San Diego Bay, beginning at Shelter Island, proceeding northeast to Harbor Island, proceeding southeast along the shoreline to Tenth Avenue Marine Terminal, crossing the Federal navigable channel prior to the Coronado Bridge, then northwest along the shoreline of Coronado Island to the Coronado Ferry Landing.

In response, on August 31, 2022, the Coast Guard published a notice of proposed rulemaking (NPRM) titled “Special Local Regulation; San Diego Fleet Week Veterans Day Boat Parade; San Diego Bay, San Diego, CA” (87 FR 53700). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this annual marine event. During the comment period that ended October 3, 2022, we received zero comments.

The event is expected to draw a high concentration of vessels to the San Diego Bay area along the proposed parade route. Traditionally, the San Diego Bay area serves as a major thoroughfare for commercial traffic, naval operations, ferry routes, and a number of other recreational uses. The Coast Guard is establishing this special local

regulation to minimize impacts on this congested waterway. This regulation is necessary to ensure the safety of individuals, property, and the marine environment on the navigable waters of San Diego Bay during this event.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70041 (previously 33 U.S.C. 1231). The Captain of the Port Sector San Diego (COTP) has determined that potential hazards associated with the San Diego Fleet Week Veterans Day Boat Parade annually on a weekend during the month of November will present a safety of life concern on navigable waters. The purpose of this rule is to ensure safety of life on the navigable waters in the safety zone before, during, and after the scheduled event.

For the reasons stated above, we are issuing this rule.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published August 31, 2022. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a special local regulation annually on a weekend in November. The special local regulation will cover all navigable waters of San Diego Bay, beginning at Shelter Island, proceeding northeast to Harbor Island, proceeding southeast along the shoreline to Tenth Avenue Marine Terminal, crossing the Federal navigable channel prior to the Coronado Bridge, then northwest along the shoreline of Coronado Island to the Coronado Ferry Landing. No vessel or person will be permitted to enter the special local regulation without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders

related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, and duration of the special local regulation. Vessel traffic would be able to safely transit around this special local regulation, which would impact a small-designated area of the San Diego Bay. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the areas, and the rule would allow vessels to seek permission to enter the areas.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the special local regulation may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the

Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a special local regulation that would prohibit persons and vessels from transiting the regulated area during the parade. It is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received

without jeopardizing the safety or security of people, places, or vessels.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements,
Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100--SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05-1.

2. In § 100.1101, amend table 1 by adding an entry for “17. San Diego Fleet Week Veterans Day Boat Parade” to read as follows:

§100.1101 Southern California Annual Marine Events for the San Diego Captain of the Port Zone.

* * * * *

Table 1 to §100.1101

17. San Diego Fleet Week Veterans Day Boat Parade	
Sponsor	San Diego Fleet Week Foundation.
Event Description	Boat parade.
Date	One weekend in November.
Location	San Diego Bay, CA.
Regulated Area	All waters of San Diego Bay, from surface to bottom, beginning at Shelter Island, proceeding northeast to Harbor Island, proceeding southeast along the shoreline to Tenth Avenue Marine Terminal, crossing the Federal navigable channel prior to the Coronado Bridge, then northwest along the shoreline of Coronado Island to the Coronado Ferry Landing.

Dated: November 7, 2022.

J. W. Spitler,

*Captain, U.S. Coast Guard,
Captain of the Port Sector San Diego.*

Editorial note: This document was received for publication by the Office of the Federal Register on February 14, 2023.

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